

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PETER MOREY, D.V.M.

v.

HEALTHY PET CORP. OF
MASSACHUSETTS AND HEALTHY
PET CORP.

Defendants.

MAY 10 2004

RECEIPT # 55950
 AMOUNT \$ 150
 SUMMONS ISSUED _____
 LOCAL RULE 4.1 _____
 WAIVER FORM _____
 MCF ISSUED _____
 BY DPTY. CLK. g
 DATE 5-10-04

04-10924 JLT

NOTICE OF REMOVALMAGISTRATE JUDGE Dein

Pursuant to 28 U.S.C. § 1446(a), the Defendants, Healthy Pet Corp. of Massachusetts and Healthy Pet Corp. file this Notice to remove the above-captioned case to this Court. In support of removal, the Defendants respectfully state as follows:

1. Healthy Pet Corp. and Healthy Pet Corp. of Massachusetts are the Defendants in a civil action brought on or about April 6, 2004 in the Superior Court of Middlesex County, Massachusetts, identified as Peter Morey D.V.M. v. Healthy Pet Corp. of Massachusetts, et al., MLCV-2004-01485 (the "State Court Action").
2. A copy of the Complaint, which is the initial pleading setting forth the claims for relief upon which this action is based, was served upon the Defendants on April 8, 2004. This Notice of Removal is filed within thirty (30) days of notice upon the Defendants of this action and is timely filed pursuant 28 U.S.C. § 1446(b).
3. Removal of this action is proper under 28 U.S.C. § 1441(a) as it is a civil action brought in a state court, of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1331. The plaintiff seeks relief under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1961, a federal statute.

4. Pursuant to 28 U.S.C. § 1446(d), notice of the filing of this Notice of Removal is being given to all parties in the State Court Action by filing a Notice of Filing Notice of Removal of Action, along with a copy of this Notice of Removal, in the State Court Action and by service upon all parties in accordance with applicable law.

5. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served upon Defendants are attached hereto as Exhibit A. Pursuant to L.R. 81.1, Defendants will file in this Court, within thirty (30) days after filing this Notice of Removal, certified or attested copies of all records and proceedings in the Middlesex Superior Court and a certified or attested copy of all docket entries in the Middlesex Superior Court.

6. Defendants reserve the right to raise all defenses and objections in this action after the action is removed to this Court.

Respectfully submitted,
**HEALTHY PET CORP. OF
 MASSACHUSETTS AND HEALTHY PET
 CORP.,**

By their attorneys,



Catherine E. Reuben BBO#552379
 ROBINSON & COLE LLP
 One Boston Place
 Boston, MA 02108
 Tel 617-557-5916

Dated: May 10, 2004

CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2004, I caused to be served a true and correct copy of the foregoing by first class mail, postage prepaid, addressed as follows:

Frank C. Muggia, Esq.
 6438 W. Quaker Street
 Orchard Park, New York 14217



Catherine E. Reuben